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Attorneys for Defendants

HSBC MORTGAGE CORPORATION (USA) and
 HSBC BANK USA, N.A.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

Philip Wong, Frederic Chaussy, and Leslie
 Marie Shearn, individually, on behalf of all
 others similarly situated, and on behalf of
 the general public,

Plaintiffs,

v.

HSBC Mortgage Corporation (USA);
 HSBC Bank USA, N.A.; and DOES 1
 through 50, inclusive,

Defendant.

Case No. C 07 2446 MMC [ECF]

**DECLARATION OF RHONDA CONTE IN
 OPPOSITION TO PLAINTIFFS' MOTION
 FOR CLASS CERTIFICATION FED. R.
 CIV. P. 23**

Date: October 10, 2008
 Time: 9:00 A.M.
 Courtroom: 7 (19th Floor)
 Judge: Hon. Maxine M. Chesney

I, Rhonda Conte, hereby declare and state:

1. I am over the age of 18, and I have personal knowledge of the facts listed below. If called as a witness, I would testify to the following.

2. I work for HSBC Mortgage Corporation USA ("HMCU") as a Retail Mortgage Lending Consultant. Another name for this position is "loan officer." I have worked for HMCU as a "loan officer" from 2006 to the present. Geographically, I am assigned to the Loan Production Office ("LPO") located at 16 Route 303, Tappan, New York. I was previously assigned

1 to the LPO in Nyack, New York. I also work with one HSBC Bank USA, N.A. ("HBUS") bank
 2 branch location in Bardonia, New York. Prior to working with the Bardonia branch, I previously
 3 worked with, at various times, the Sloatsburg and Nyack, New York, bank branches.

4 3. As a loan officer, I sell mortgages by educating my customers and serving
 5 HMCU customers as it relates to providing them with the best mortgage product to meet their needs.
 6 In addition, I cross-sell the "HSBC" brand by helping to bring in additional new client accounts, i.e.,
 7 checking, money market, savings, etc., into HSBC Bank USA, N.A. ("HBUS"). Further, as a loan
 8 officer, I am responsible for identifying sources of business and building my own customer base.

9 4. I market myself and the HMCU products everywhere. These types of sources
 10 that I independently develop are responsible for 80% of my book of business. To generate my
 11 business and potential customers, I rely on an extensive source of referrals from previous clients, as
 12 well as referral relationships. I have these relationships with attorneys, real estate brokers, CPAs and
 13 financial advisors. I also perform a variety of marketing activities for a scholarship fund named for
 14 my son and donate \$100.00 of my commission from every closing to this scholarship fund.
 15 Likewise, the closing attorney and title closer generally also donate to the fund. While this
 16 scholarship fund is certainly not for generating business, it seems to have contributed to increasing
 17 my business. I also employ my own assistant who works for me approximately two days per week
 18 doing various tasks such as organizing my files, writing thank you notes, etc.

19 5. Another source of business comes from the HBUS bank branches that I
 20 service. However, the branch source only represents approximately 20% of my business. I do not
 21 get business from sitting behind a desk. My philosophy is that you have to "go to the people" to
 22 grow your business and service your clients. Therefore, I go out to wherever the potential customers
 23 are. While I will hold an occasional seminar at a bank branch, I do not choose to participate in
 24 "floor time." It is pretty apparent that I do not depend on the HBUS bank branches to make my
 25 money. I am always on the outside bringing the business to HMCU.

26 6. I regularly meet with clients personally in a variety of locations both inside
 27 and outside bank locations. The decision about where and when to meet clients is strictly for client
 28 convenience. I am a "people person" so personal contact is essential for me to develop the

1 relationship and close the deal. I do not generally conduct client business on the phone. I also
2 attend every one of my closings. In fact, it is a pretty typical situation that during one client's
3 closing, my service so impresses others, that I get new business "at the closing table."

4 7. On occasions, I will also work with one of my referring Real Estate agents at
5 an "Open House" event. In that case, I am present at the house being sold and approach potential
6 buyers by describing the HMCU mortgage products. This helps to develop a personal relationship
7 and plays to my strength as a "people person."

8 8. I have significant freedom to engage in activities that best help me identify
9 and develop customers, as well as to meet my sales goals. HMCU does not insist I do anything nor
10 regulate my time spent on the job in any way. Other than conducting myself in an ethical manner,
11 there is very little managerial control over my activities. I have complete freedom to do my job.

12 9. My current manager is Robert Burns. I do not find that I generally need to
13 have a lot of contact with or input from him. However, when I do need his help, I will call him,
14 given that he and I are out or on the road most of the time.

15 10. HMCU provides specialized training in a variety of areas and with regard to
16 its products. This training is done to assist loan officers in knowing more about their job. Most of
17 this training is done online.

18 11. To my knowledge and based upon my experience at HMCU, no policies
19 and/or procedures exist regarding how I go about conducting my sales activities. Specifically,
20 except for attending a monthly meeting and maintaining a relationship with my branch, no one
21 regulates how I spend my time.

22 12. I have worked under one previous manager, Michael Coyne, during the course
23 of my employment as a loan officer with HMCU. When working for different managers, my
24 experience of management styles was significantly different. For example, while Mr. Coyne was my
25 manager, he required us to attend weekly meetings at the office while my current manager only
26 speaks briefly with each individual loan officer once or twice a week.

27 13. I believe my relationship with the various underwriters working on my
28 clients' files are essential. Therefore, I call the underwriters daily and even meet with them

1 personally in Buffalo, New York, if necessary. I believe this relationship is also essential to the
2 success of my business. I make my schedule and set my hours. I am the #1 producer in Rockland
3 County.

4 14. I cannot say that I generally work from any fixed location. In fact, I do not
5 maintain a home office. I have to be flexible about location and often take referrals to lunch and
6 always attend my customers' closings. I regularly go to clients' homes or places of business to meet
7 with them. It is my philosophy that it is important to be out in the field meeting with customers,
8 generating new sources of business, and not sitting behind a desk.

9 15. As a loan officer, I am paid by a draw and incentive commissions from the
10 HMCU incentive plan. This year, I have already made approximately \$150,000.00.

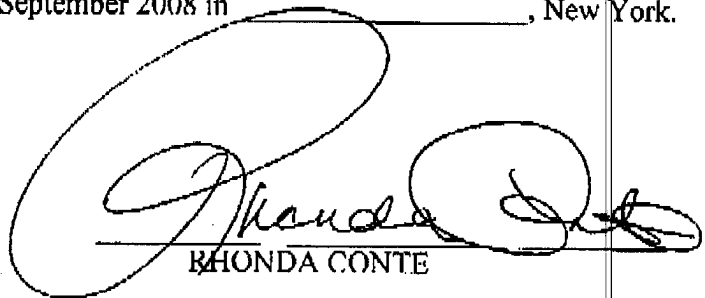
11 16. HMCU has a requirement that customer application fees should not be
12 waived. My personal philosophy is that I will not process a client's loan application unless I know
13 the loan will close so I never take the application fee up front. I am well aware that if I do not take
14 the fee and the loan eventually does not close, that the amount of the waived fee will reduce the
15 amount of my incentive compensation. This has happened to me on approximately ten occasions. I
16 believe it is my choice if I do not take the fee. If the loan closes, the customer eventually pays the
17 fee at closing. Frankly, I look at my choice not to take the application fee as my option and the price
18 of doing business.

19 17. HMCU lets me decide independently how, when, and where I do my job.
20 This job is like my own business. What I put into it, I get out of it. Therefore, I use my discretion in
21 managing my business to determine how to best sell HMCU's mortgage products and service its
22 customers. While I often work long hours, I decide how to spend those hours.

23 18. I took the mortgage lending consultant position with HSBC because it
24 provided me with the opportunity to earn commissions and determine my own hours. I do not want
25 any changes to my compensation plan, hours or independence from supervision. My managers have
26 never threatened that I would lose my job if I joined this lawsuit.

1 I declare under penalty of perjury under the laws of the State of New York, the laws
2 of the State of California, and the United States of America that the foregoing declaration is true and
3 correct to the best of my personal knowledge.

4 Executed this 19 day of September 2008 in _____, New York.

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